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WASHINGTON, D.C. STATEHOOD
CONSTITUTIONAL CONVENTION

6:58 o'clock p.m.
Thursday,
May 27, 1982

9th Floor auditorium
10th and E Streets
Washington, D.C.

The Plenary Session of the above-named
Convention was called to order, pursuant to notice, by
President Charles Cassell, who chaired the session.

P R O C E E D I N G S

PRESIDENT CASSELL: I call the Convention to order.
May we have our moment of meditation, please?

[Moment of meditation.]

PRESIDENT CASSELL: Mr. Secretary, please call the roll.

[Secretary Cooper called the roll as follows, with the responses of the Delegates:]

Delegate Baldwin; Delegate Barnes, Present; Delegate Blount; Delegate Bruning, Yes; Delegate Cassell, Present; Delegate Clarke; Delegate Coates, Present; Delegate Cooper, Present; Delegate Corn, Present; Delegate Croft; Delegate Eichhorn, Here; Delegate Feely, Present; Delegate Freeman; Delegate Garner; Delegate Graham, Here; Delegate Harris; Delegate Holmes, I been here since 4:00 o'clock; Delegate Jackson; Delegate Johnson, Present; Delegate Jones, Here; Delegate Jordan; Delegate Kameny, Here; Delegate Lockridge, Present; Delegate Long, Here; Delegate Love, Been here since noon; Delegate Maguire, Here; Delegate Marcus, Good evening, Mr. Secretary, I also have been here since noon; Delegate Charles Mason, Here; Delegate Hilda Mason, Here. I have been here since 11:00 o'clock; Delegate Brian Moore, Present; Delegate Jerry Moore; Delegate Talmadge Moore, Here; Delegate

Nahikian; Delegate Nixon; Delegate Oulahan; Delegate Paramore; Delegate Robinson; Delegate Rothschild; Delegate Schrag; Delegate Shelton, Present; Delegate Simmons; Delegate Street; Delegate Terrell; Delegate Thomas, Here; Delegate Warren.

SECRETARY COOPER: Mr. President, we have 24 Delegates answering the roll.

PRESIDENT CASSELL: There being 24 Delegates, there is a quorum. The Convention is now in session.

You all have a copy of the Agenda for tonight. You can see that tonight we are dealing with two things: second readings and the naming of the state.

A procedure for determining the name of the state has not yet been developed but I will accept recommendations from the floor.

The first reading will be that of Education. The second will be Initiative and Referendum and the third second reading will be for Bill of Rights.

Let me again reiterate the rules that we are operating under, as suggested by our Parliamentarian, Mr. Cal Lindo, in order to expedite things. Things went very well last night and I want to congratulate us all and also to thank you.

The following are some of the problems which, if corrected, will speed up the Convention. This is dated May

the 24th.

One. Point of order. Members call a point of order sometimes which are not really points of order. A point of order has to do with the administration of meetings and procedures.

Example: A member speaking without being recognized by the Chair deserves a point of order. A member interrupting another member who is speaking. And so forth.

A point of order does not relate to the substance of a main motion. If a person calls "point of order," that is not a point of order, declare the point of order out of order and move on.

[President Cassell reads the rest of the memo from the Parliamentarian, reminding the Delegates further of the Rules of Procedure.]

PRESIDENT CASSELL: Delegate Graham.

DELEGATE GRAHAM: We have all worked diligently on that Education article. I am also a member of that committee, along with Delegate Brian Moore.

Mrs. Feely is going to present that now for adoption.

PRESIDENT CASSELL: Thank you. Ms. Feely?

DELEGATE FEELY: Good evening.

The Article on Education. I move the adoption of

Section 1, Provision for Education.

[Several Delegates seconded.]

PRESIDENT CASSELL: It has been moved and seconded that the Article on Education, Section 1 be adopted.

Is there discussion?

Those in favor signify by saying "aye".

[Chorus of "ayes".]

PRESIDENT CASSELL: Those opposed?

Abstain?

The motion is adopted.

Can you hold it for just a minute? I misplaced my article.

Okay. Delegate Feely.

DELEGATE FEELY: Mr. Chairman, in Section 2, Primary and Secondary Education, there appears to be no changes. I move the adoption of Section 2, Primary and Secondary Education.

[Several Delegates seconded.]

PRESIDENT CASSELL: It's been moved and seconded that Section 2, Primary and Secondary Education, be adopted.

Discussion?

There being no discussion, those in favor of adopting Section 2, indicate by saying "aye".

[Chorus of "ayes".]

PRESIDENT CASSELL: Those opposed?

Abstain?

Section 2 is adopted.

DELEGATE FEELY: Mr. Chairman, there are no changes in Section 3, Higher Education. I move the adoption of Section 3, Higher Education.

A DELEGATE: Second.

PRESIDENT CASSELL: It's been moved and seconded that Section 3 on Higher Education be adopted.

Discussion?

There being no discussion, those in favor of adopting Section 3, indicate by saying "aye".

[Chorus of "ayes".]

PRESIDENT CASSELL: Opposed?

Abstain?

Section 3 is adopted.

DELEGATE FEELY: Mr. Chairman, there are no changes in Section 4, Restrictions on Financing of Non-Public Education. I move the adoption of Section 4.

A DELEGATE: Second.

PRESIDENT CASSELL: It has been moved and seconded that Section 4, Restrictions on Financing of Non-Public

Education, be adopted.

Discussion?

There being no discussion, all those in favor of adopting Section 4 indicate by saying "aye".

[Chorus of "ayes".]

PRESIDENT CASSELL: Opposed?

Abstain?

Section 4 is adopted.

DELEGATE FEELY: Mr. Chairman, I move the adoption of the entire Article on Education.

[Several Delegates seconded.]

PRESIDENT CASSELL: It has been moved and seconded that the entire article on Education -- I'm sorry, I'm sorry, gentlemen.

All right, it has been moved and seconded that Section 1 -- I beg your pardon -- the entire article on Education be adopted.

Discussion?

DELEGATE KAVENY: . I believe that Delegate Mason has a conforming amendment to be made and would like to be proposed at this point.

DELEGATE FEELY: I haven't received any.

PRESIDENT CASSELL: Delegate Hilda Mason.

DELEGATE HILDA MASON: Mr. President and Madam Chair, somehow this is not being presented in the order that I thought it would be and I have a problem in getting it typed.

DELEGATE FEELY: Okay, let's look at it, because I have not read it.

PRESIDENT CASSELL: Do you need time to resolve that? A few minutes?

DELEGATE GRAHAM: Yes, we do.

Come here, Hilda --

PRESIDENT CASSELL: Why don't we try to resolve that?

DELEGATE GRAHAM: Yes.

PRESIDENT CASSELL: We will give people an opportunity to read the other Article on Initiative and Referendum, if we have it.

I remind you that you have -- yes --

[Brief side discussion.]

Okay, Delegate Graham has indicated that the next

[Further side discussion.]

All right, I had just started to make this statement.

DELEGATE GRAHAM: Oh, I'm sorry.

PRESIDENT CASSELL: Delegate Graham has requested that the next reading shall be the Bill of Rights. I had

already indicated that it would be Initiative and Referendum.

So that is the next order of business after we finish Education.

Delegate Feely?

DELEGATE FEELY: What we did want to do was to make the language conform under -- um -- what page?

PRESIDENT CASSELL: What page?

DELEGATE KAMENY: I'm sorry, page 4 and page 8.

DELEGATE HILDA MASON: I am talking about page 9.

DELEGATE FEELY: Page 4 and page 9. We wanted to make the language the exact same. That language --

DELEGATE HILDA MASON: I'm sorry. Page 4 and page 8. Page 8, not 9.

[Side conversation.]

PRESIDENT CASSELL: Let us wait until Delegate Feely indicates to us the pages that we are dealing with.

[Continued discussion.]

DELEGATE FEELY: Here is the language that should be made consistent. We wanted -- in order to make sure that the language that is at the top of page 8, lines 1, 2 and 3, are consistent under "State Board of Education."

We wanted to delete lines 8, 9, 10 and 11 on page 4 and insert the exact same language as appears on lines 1, 2

and 3 of page 8. That is conforming language.

DELEGATE GRAHAM: It would have to be more than that. It would also have to be -- it would not make sense --

PRESIDENT CASSELL: I am sorry. May the speaker take the microphone?

DELEGATE GRAHAM: No, I am talking to her right now.

[Side discussion.]

PRESIDENT CASSELL: Are we going to have this -- I understand what you are saying. You want to make a certain conformance. Are we going to have this in writing so that we can apply it to page 4?

Delegate Eichhorn?

DELEGATE EICHHORN: Mr. President, this was on the floor with the basic Article and it was proposed at that time and the argument was made that the two sections should be consistent.

However, the argument was also made that the Board of Public Education deals with elementary and secondary schools and the Board of Higher Education deals with an institution of higher learning and that they are not aligned all together. And the motion to make them consistent was defeated, so this would be a reconsideration.

DELEGATE FEELY: That is what we are proposing.

PRESIDENT CASSELL: That is what you are proposing, right.

DELEGATE EICHORN: We are proposing that the rental of elementary and secondary school buildings by the Board of Public Education be handled in the same way as that of the Board of Higher Education.

PRESIDENT CASSELL: All right, why don't you wait until we have something that we can act on? A motion to change, revise, make, conform?

[Continuing side discussion.]

PRESIDENT CASSELL: Delegate Feely, does it appear that this is going to take more than five minutes?

DELEGATE GRAHAM: Yes, it is likely to so we might as well take a short recess. You know, this will have to be typed, anyway.

PRESIDENT CASSELL: No, it does not have to be typed. The Secretary ought to very clearly be able to read it so that the body knows what it is you are substituting.

Delegate Love.

DELEGATE LOVE: Point of order, Mr. President, the rules require that it be typed.

PRESIDENT CASSELL: We are talking about conformance. I do not think that we are changing the substance.

Are we changing the substance?

DELEGATE LOVE: Yes, it is a substantive change.

PRESIDENT CASSELL: I don't know that, sir. Let me ask the appropriate people.

[Continuing side discussion.]

PRESIDENT CASSELL: Delegate Graham or somebody who speaks for the committee --

[Continuing discussion.]

PRESIDENT CASSELL: Delegate Graham, I -- if we have not resolved this, I would prefer that we go on to the next Article and then come back to this when we have.

DELEGATE GRAHAM: Mr. President, Mr. Mason will speak to that Article.

DELEGATE C. MASON: The language which is being proposed for Subsection (F) is to track the corresponding provision that appears on page 8 for Higher Education and so it would read:

"However, no such buildings or lands shall be leased for a term of more than five years or sold, except with the consent of the House of Delegates."

PRESIDENT CASSELL: Is this in addition to the language that exists in Subsection (F)?

DELEGATE C. MASON: No, in place of it. In place

of it. That was what had been proposed to conform with what Hilda had pending legislation in the Council to do. It more or less conforms with it.

PRESIDENT CASSELL: What I am not clear about is that what you are indicating is that Subsection (F) should begin with the words, "However, no such buildings --"

DELEGATE C. MOORE: Yes.

PRESIDENT CASSELL: That would have to relate to the prior title, wouldn't it? Or the prior subsection and it would be a continuation there, would it not?

DELEGATE C. MOORE: Yes. The difference is that in the Higher Education, that thing is in two subsections and here it is in only one subsection. But it takes the place of the paragraph that is now called "F". It maybe should be part of "E."

PRESIDENT CASSELL: Well, I think you had better --

DELEGATE CORN: Point of order. Point of order.

PRESIDENT CASSELL: -- you had better reword that and submit it again as a conformance. I don't know that there is a change in substance but when you come back we can determine whether it is a change in substance or not.

Let us postpone a vote on the adoption of this until we can have new language. It looks like there will be a new

Section E with wordage added to it and you would lose the Section F.

I do not see how you could start off a section with "However."

DELEGATE CORN: Point of order. Point of order.

PRESIDENT CASSELL: Yes. State your point of order.

DELEGATE CORN: Sir, Section F on page 4 deals with the State Board of Education, an elected body that deals with education from high school -- senior high school on down.

The section on page 8 deals with the Board of Higher Education from the university level on up which is an appointed board.

There are two different boards. There is no inconsistency here. One board has the right to use their lands, et cetera, in one way and the other has the right to use their lands in another way. To do anything to change this now would be reconsideration of the authority of each of those boards.

There are two different boards.

DELEGATE KAMENY: There is no difference except length of time --

DELEGATE CORN: One board is dealing with university-

DELEGATE KAMENY: I am telling you, there is no difference --

DELEGATE CORN: Oh, there's plenty of difference --

[President Cassell, rapping for order.]

DELEGATE KAMENY: Read it.

DELEGATE CORN: I read it.

DELEGATE KAMENY: The only difference is five years.

PRESIDENT CASSELL: Delegate Corn. Delegate Kameny.

Please. Will everybody please refrain from talking.

The Chair would like your attention, please.

What Delegate Corn is saying is incomprehensible inasmuch as there is nothing on the floor yet. There is no proposal made.

When a proposal has been made, then we can have responses thereto.

Now, the committee obviously is not prepared to ask for the adoption. All right, I am going to ask Delegate Mason whether she has words to the contrary?

DELEGATE H. MASON: Mr. President and members of the Delagation. I move that we allow the Style and Drafting Committee to conform the section under State Board of Education with the section under Board of Higher Education.

DELEGATE KAMENY: Which is to be conformed to which so we know what to do?

DELEGATE H. MASON: Conform the State Board with

the Higher Board. That is what I want.

And, Mr. President, it has been seconded. May I speak to it?

PRESIDENT CASSELL: Let me ask a question before I determine whether this is an appropriate motion.

We are not charged, during our second readings, to conform one part with another. But we are to make certain that there are no inconsistencies between what we have now and what has already been adopted.

Now, if there are inconsistencies in language or incomprehensibility, that is one thing. It seems to me if such conformance as you have indicated would change the substance of the original reading, then that would be a reconsideration which would require a two-thirds vote.

Now, Delegate Coates?

DELEGATE COATES: Mr. President, that would be true except that -- and I stand to be corrected -- except that the Committee on Education accepted the amendment appropriate with second reading so that we would not need reconsideration here, under that rule.

PRESIDENT CASSELL: Yes. I will have to say, our Rules don't allow a Chairperson to contravene the rules by accepting a substantive change but we have to determine that

when we hear it. Right.

DELEGATE H. MASON: Mr. Chairman, may I just say something? I moved to try to get this change on the floor, as Delegate Eichhorn said. The argument was that neither one of the boards should have that but they later changed and gave it to the higher board and we should have moved to make it consistent on the night that we approved it.

I am sure that most of us agree that the Board of Education and the State Board owns a lot more property than -- and operates a lot more property and buildings and so forth than the higher boards and so I think --

I am very sorry, I did not interrupt you --

I think that these people are elected and that we elected them and that we can hold them accountable.

PRESIDENT CASSELL: Delegate Mason, I am sorry to interrupt you but you really need to speak to your motion. That is the substance of the change. The motion on the floor is to allow the Style and Drafting Committee to reconsider the proposal and bring it back to us.

The discussion then can be on the merits of what they bring back to us.

DELEGATE H. MASON: Well, I --

PRESIDENT CASSELL: I would like to ask for a vote

and the motion is to allow the Style and Drafting Committee to reconsider and bring back to us a proposal which is different than what we have now. Yes, Delegate --

SECRETARY COOPER: I understand what Delegate Mason is trying to do. However, at this point -- and you read what yesterday's procedure was -- this is totally inappropriate at this point. We discussed it. We debated it. We accepted this article as it was or as it is in good conscience on the night we debated the education articles.

We know it is there. We are well-aware of it. If we really wanted to amend it at that time, then we don't want it now.

PRESIDENT CASSELL: Delegate Simmons, then Delegate Moore.

DELEGATE SIMMONS: Mr. President, on this proposed amendment, of course I did not hear all of the dialogue. However, I am very aware that for the State Board of Education to have to engage in a process which requires the advice and consent of the legislature before lease and rental is to encumber and give a prerogative --

DELEGATE CORN: Point of order. Point of order.

DELEGATE SIMMONS: --[Inaudible owing to Del. Corn] -- which are based on -- which is based on our records --

DELEGATE CORN: Point of order. Point of order.

DELEGATE EICHHORN: Point of order. Point of order.

DELEGATE SIMMONS: [Continues but is overridden by other delegates' conversations and cries of point of order.]

PRESIDENT CASSELL: Delegate Eichhorn, state your point of order.

DELEGATE EICHHORN: My point of order is that this motion is out of order. This is a reconsideration. We debated this fully in regards to the Board of Education. We defeated the approval at that time. We adopted the language in Style and Drafting -- which they drafted for us. To change that is a reconsideration and it is not appropriate for Style and Drafting to be making substitute changes.

PRESIDENT CASSELL: I would like to hear from somebody else before I rule on that. Delegate Kameny.

DELEGATE KAMENY: Nobody has stated yet what the change is. There are no specifics whatsoever about it. How can we talk about a change when we do not know what it is? As far as I can see, while the language is differently phrased, the two statutes are identical in meaning. It is that way and that way only and if you will read them, that will become immediately apparent.

[Many side discussions, overriding recognized
Delegate Kameny.]

DELEGATE CORN: Point of order. Point of order.

DELEGATE KAMENY: And I think this should be put into language and presented properly to the committee so that it can be put before the body.

PRESIDENT CASSELL: Delegate Jordan.

DELEGATE JORDAN: Mr. Chair, I don't know why --

[President rapping for order.]

DELEGATE JORDAN: -- why we are trying to confuse this issue or compound the problem by way of a lot of point of orders and suggesting that it is out of order to offer an amendment on second reading?

It is not out of order to offer an amendment on second reading.

Now, it does not matter whether that is considered a reconsideration or what. Our rule provides for it. This article -- I mean, rule 3.3, Section (D). And --

DELEGATE EICHHORN: Point of order, Ab. This is not --

DELEGATE JORDAN: And will you please not interrupt me? You should make point of orders to the Chair, not to me.

Now, Mr. Chairman, it says here that amendments on second reading can be offered unless they say, first of all --

If people don't be quiet so we can hear --

PRESIDENT CASSELL: Thank you, Delegate Jordan.
Delegate Coates.

DELEGATE EICHHORN: Ab -- Ab --

DELEGATE CORN: Point of order --

[very high noise level in hall. Much side discussion]

PRESIDENT CASSELL: Delegate Simmons. Delegate
Mason.

We are not getting off to the kind of start that we
got off to yesterday. We made very good time yesterday. Let's
see if we can't get over this snag. All right?

DELEGATE CORN: Point of order. Point of order.

VOICE: Oh, forget your point of order.

PRESIDENT CASSELL: Now, wait a minute. Delegate
Jordan has the floor. I am asking you -- I only interrupted
Delegate Jordan to ask for attention so that we can get on with
the business. All right?

Delegate Jordan, would you complete?

DELEGATE JORDAN: Mr. President, all I am saying is
that -- [pauses owing to cross-talking]

PRESIDENT CASSELL: All right, ladies and gentlemen.
I would like for everybody to cease discussion.

Nothing is going on now. The recorder cannot hear.
The speaker cannot be heard. I would like for the people at

the front table to be quiet. I would like for anybody at the reporter's table who is talking to be quiet. And everybody else. I want to get over this point. It really is not that serious.

Now, we need to resolve it one way or the other but I can't resolve it with everybody talking.

Delegate Jordan, would you finish what you were saying?

DELEGATE JORDAN: Yes. Our Section D says, "On Second Reading, amendments shall be in order only if" and what I am saying is that this meets the conditions under which an amendment is in order.

Now, the point I am trying to make, Mr. Chairman, is that we have heard a lot of discussion today [inaudible owing to cross-talk] -- I am saying --

Now, if the committee chair waives the requirement that this section would have had to have been introduced prior to the committee taking action on the section, then it can be discussed.

I am saying that there is a way to get around this dilemma that we find ourselves in and we do not have to go through all of this debate and arguing.

DELEGATES EICHHORN AND CORN: Point of order.

PRESIDENT CASSELL: From what I was able to hear of what Delegate Jordan said, he is correct.

DELEGATES CORN and EICHHORN: Point of order. Point of order.

PRESIDENT CASSELL: I want to make a statement and I am not going to tolerate this while I make a statement. We can spend all night long with points of order and points of clarification. I want to move on. I want to observe the rules and respect your rights.

I think Delegate Jordan has made a point and that there is a procedure in our rules for making amendments which means to make an amendment which changes a substance, right?

But we are not at that point yet. There is nothing on the floor for us to vote on. The last thing that happened was a motion by Delegate Mason and Delegate Mason wanted the opportunity for the committee to withdraw its motion to adopt while it considers making a different proposal to you.

We do not know what it is. We just heard her talk about it. We cannot predict what it is. I want to vote on Delegate Mason's motion. Shall we -- I can ask them to do it myself, but since the motion is on the floor, right --

MANY VOICES: Point of order. Point of procedure.

DELEGATE SIMMONS: I want to hear the amendment,

Delegate Mason's motion, whether it is acted herein now and not left to the Style and Drafting at a later time or, if she withdraws, I will simply make a new motion that embodies immediate action as opposed to postpones.

PRESIDENT CASSELL: Delegate Mason, will you withdraw?

DELEGATE H. MASON: Yes, I will.

PRESIDENT CASSELL: Okay --

DELEGATE SIMMONS: Mr. President, I move that the control of -- I would like to use the same precise language -- all I want stricken from there --

DELEGATE COATES: I've got the reading.

DELEGATE SIMMONS: You've got the reading?

DELEGATE COATES: Yes.

DELEGATE SIMMONS: Would you read? Delegate Coates will read the motion.

DELEGATE COATES: Delegate Simmons' motion is to delete on page 4, lines 8 through 11, delete on page 4, lines 8 through 11. And insert, beginning on page 4 of line 8, insert lines 1 through 3 on page 8.

DELEGATES COOPER and CORN: Point of order.

PRESIDENT CASSELL: That is not clear. Please repeat it and let me hear what it is so that I can rule.

DELEGATE COATES: [Repeats foregoing.]

PRESIDENT CASSELL: Would those three lines then become a part of Subsection (E)?

DELEGATE SIMMONS: Right.

DELEGATE COATES: That is correct, sir, so that the State Board of Education provision regarding control of its lands buildings would read exactly as the higher Board of Education. Right.

DELEGATE COOPER: Point of order. Point of order.

PRESIDENT CASSELL: I would entertain a point of order if -- after this gets a second. Is there a second to that?

[Motion made. There is a second.]

DELEGATE CORN: Point of order. Point of order.

PRESIDENT CASSELL: State your point, Delegate Cooper.

DELEGATE COOPER: This is clearly an amendment. It does not meet the qualifications. It is not typewritten and circulated. I have not seen or heard a waiver from the Chair and it certainly was not issued due to substitute or substantive committees prior to being reported out at first reading. So it is out of order.

PRESIDENT CASSELL: Thank you. I believe that you

are correct. It is an amendment.

Now, let us find out whether it qualifies.

Delegate Coates.

DELEGATE COATES: Yes, sir, in defense of our compliance with our rules, here is the amendment, sir, in writing about which the Chairperson of the Committee has indicated her willingness to consider on second reading.

SEVERAL VOICES: That's right.

DELEGATE CORN: Point of order. Point of order.

PRESIDENT CASSELL: Would the Chairperson verify that?

DELEGATE GRAHAM: I am willing to waive [said almost inaudibly.]

DELEGATE CORN: Point of order. Point of order.

PRESIDENT CASSELL: The Chair is presently asking the Chairperson if she has waived in accordance with the rules?

DELEGATE GRAHAM: Yes, I have.

PRESIDENT CASSELL: All right.

State your point.

DELEGATE CORN: I would like to make the point that even if the Chair of the substantive committee waives that committee's rights as opposed to having demanded the amendment in substance, in advance of the first reading, nonetheless that

does not obviate the second requirement which is that the amendment must be circulated in writing to all of the delegates in advance.

That has not been done and since this is an amendment, therefore it is out of order.

VOICE: Point of clarification.

VOICE: Point of order.

SECRETARY COOPER: Point of clarification.

PRESIDENT CASSELL: State your point of clarification.

SECRETARY COOPER: My point of clarification is that it does not have to be circulated in writing, it has to be circulated in typing. It has got to be typed and circulated.

MANY VOICES: That's not true. No, it doesn't.

DELEGATE SHELTON: Mr. Chair, I suggest that --

MANY VOICES: Mr. Chairman -- Mr. President --

DELEGATE JORDAN: I just want to ask for a five-minute recess.

PRESIDENT CASSELL: No, no. Not yet. Not yet. Delegate Feely.

DELEGATE FEELY: I move to withdraw the second reading of the Education Committee report.

[Motion made. There is a second.]

PRESIDENT CASSELL: It has been moved and seconded

that the Article presented for second reading on education be withdrawn. Discussion. Delegate Shelton.

DELEGATE SHELTON: This is not necessary, Delegates. Now, we can resolve this problem. I mean, we have come this far. We don't have to go into a whole maneuver.

I would like to ask a question of Delegate Mason through the Chair.

I am concerned, Delegate, that there is a great deal of interest in the downtown land on which the District of Columbia higher education occupies -- I mean, and that there would be the possibility that certain lands could be exchanged by the Board of Higher Education for certain kinds of things that they would be interested in.

And I am concerned that -- would this, then, allow that lands could be exchanged for or not developed by the higher education without the consent of either the Council or the individual?

DELEGATE KAMENY: What are you talking about? This is not retroactive.

DELEGATE H. MASON: I am -- Mr. President, I am speaking to Delegate -- um --

PRESIDENT CASSELL: You are responding to Delegate Shelton's question on the motion.

DELEGATE H. MASON: Yes, through you, Mr. Chairman --
Mr. President.

The issue is not the Board of Higher Education. We have already adopted that. And what we are trying to do is to give the State Boards of Education the same power that the higher board has in the Constitution.

PRESIDENT CASSELL: Further discussion on the motion to withdraw. Delegate Blount. Delegate Eichhorn. Ladies and gentlemen, if we could have a little quiet, Delegate Blount could make his statement. Discussion.

DELEGATE BLOUNT: From what I could understand so far by just listening to the Delegates, it would seem to me that this began -- this began when --

PRESIDENT CASSELL: Delegates, couldn't you find a less-disruptive way to resolve your differences?

DELEGATE KAMENY: We have one.

PRESIDENT CASSELL: Are you prepared to do that now?
Committee Chair?

DELEGATE KAMENY: I want to speak as an independent delegate at this point. If they all want me to do it, I will do it.

PRESIDENT CASSELL: All right. Delegate Blount.
Delegate Blount has the floor.

VOICE: What do you want to do?

PRESIDENT CASSELL: Ladies and gentlemen, please be quiet now. Please be quiet. Delegate Blount.

DELEGATE BLOUNT: I would like to suggest that in the future, just as I have suggested many times, and that is, when a point of order is first made, that the Chair would just, you know, make a decision on it, whether it is on one side or the other. It is obvious that we are not going to be able to please everyone so when a point of order first comes up, if we could just make that decision and we could just move on and that would keep us from getting into a lot of these arguments.

PRESIDENT CASSELL: The Chair would like to be able to do that. Sometimes the Chair needs some advice and assistance.

DELEGATE BLOUNT: And it would help a lot if we could get the Delegates to speak to the point of order.

PRESIDENT CASSELL: And of course, when we get five or six points of order at the same time, that consumes a lot of time, also. I understand what you are trying to do.

DELEGATE BLOUNT: I wish that the committee would withdraw that particular motion and try to work it out.

PRESIDENT CASSELL: Thank you. Thank you.

I really want to speak to the committee through its

Chairperson.

DELEGATE BLOUNT: The motion that she made.

DELEGATE GRAHAM: Now, which committee? Style and Drafting?

PRESIDENT CASSELL: Style and Drafting. Okay.

[Side discussion.]

PRESIDENT CASSELL: All right, here is where we are, ladies and gentlemen. We have read all of the sections of the articles on education. We have approved all of the sections on education. There was a motion on the floor and that motion is still on the floor and that is to adopt the article as read.

The committee now, based on subsequent developments, has requested that it would be allowed to withdraw the request to adopt. That does not negate anything that has been done, right? And that is a temporary withdrawal, for whatever reason. It is not really our concern.

If the committee feels it is now prepared to offer that for adoption, I am going to allow them to withdraw and to come back and whatever they come back with, we will have an opportunity to vote on, on its merits.

Delegate Graham, would you please proceed to the next article and tell us when you are ready to come back to adopt the education article?

DELEGATE GRAHAM: Yes, I --

DELEGATE THOMAS: Mr. President, point of order.

PRESIDENT CASSELL: Yes, Delegate Thomas?

DELEGATE THOMAS: Mr. President, I rise on a point of order. How much time will you allow --

DELEGATE SHELTON: [Banging on the table] Let's have some order here.

PRESIDENT CASSELL: What are you trying to say, Delegate Thomas?

DELEGATE THOMAS: How much time will you allow me to speak?

PRESIDENT CASSELL: How much time will you allow me to speak?

DELEGATE THOMAS: Yes.

PRESIDENT CASSELL: One minute.

DELEGATE THOMAS: Okay. Well, I would like to give my one minute to my fellow Delegate from Ward 5 who had his hand up during this whole deliberation and you looked all over and --

PRESIDENT CASSELL: Let him speak. Let him speak, buddy.

DELEGATE T. MOORE: I pass.

PRESIDENT CASSELL: Thank you. Well done.

SECRETARY COOPER: Point of procedure.

PRESIDENT CASSELL: Well done. Point of procedure.

Let me tell you where we are right now. The committee has withdrawn its report, right? What is on the floor --

VOICE: That has been passed.

PRESIDENT CASSELL: What has been passed has been passed. For its own reason, the committee has withdrawn its motion to adopt. Point of procedure.

SECRETARY COOPER: My point of procedure is clear --
I am sure it is clear to anybody here that the Chair has been trying to make a special exception for one Delegate. I am sure that it is clear that if this was Brian Moore who was trying to make an amendment, we would not have all this. He would have been sat down and ruled out of order in less than 30 seconds. My point of procedure --

PRESIDENT CASSELL: Mr. Secretary, you are out of order.

SECRETARY COOPER: My point of procedure is --

PRESIDENT CASSELL: You are out of order. That is not a point of procedure --

DELEGATE CORN: Point of order. Point of order.

PRESIDENT CASSELL: -- you are making personal references which don't expedite our meeting.

DELEGATE CORN: Point of order. Point of order.

SECRETARY COOPER: My point of procedure is this.
My point of procedure is this.

DELEGATE CORN: Point of order. Point of order.

VOICES: Mr. Chairman. Mr. President.

PRESIDENT CASSELL: Please, sir, would you allow
us to proceed?

SECRETARY COOPER: My point of procedure is this.

PRESIDENT CASSELL: Well, make it a point of pro-
cedure, then.

SECRETARY COOPER: Last night, we went through every
article. When an amendment came up, if it were in order, it
was introduced and adopted and acted on. If it weren't in
order, the Chair said so. It has been made clear here tonight
that the amendment that is trying to rear itself is not in
order.

However, it seems that certain delegates wish to
refuse the knowledge of that and it is clear, it is clearly
stated in our rules. It was clearly stated in the procedure
that Lindo gave us. Yet, you want to circumvent it, anyway.

DELEGATE CORN: Point of order. Point of order.

SECRETARY COOPER: And this could go on throughout
this entire Convention and I must say --

DELEGATE CORN: Point of order. Point of order.

VOICE: Time. Your minute is up.

VOICES: Mr. President. Mr. Chair.

PRESIDENT CASSELL: All right, you --

DELEGATE CORN: Point of order. Point of order.

SECRETARY COOPER: Let me finish.

PRESIDENT CASSELL: No, you may not finish.

SECRETARY COOPER: I get five minutes.

SECRETARY COOPER: Delegate, you do not have five minutes. The Chair is asking you to sit down. Now, you are wasting time.

SECRETARY COOPER: It is all for this Convention.

PRESIDENT CASSELL: Delegate Graham.

SECRETARY COOPER: It is an insult to this Convention.

PRESIDENT CASSELL: Delegate Graham.

SECRETARY COOPER: An absolute insult.

PRESIDENT CASSELL: Delegate Graham, would you proceed with the next Article?

DELEGATE CORN: Point of order, Mr. President.

DELEGATE H. MASON: Point of personal privilege.

PRESIDENT CASSELL: Point of personal privilege.

DELEGATE H. MASON: Point of personal privilege.

Mr. President and members of the Delegation. [Pause] I

appreciate your listening to me. I am sorry that the Delegate who spoke before me referred to me. I have tried to be very careful in this Convention.

I am very concerned about this action, very concerned. I would be ashamed to be a part of a group which would vote to have in the Constitution a provision which would give the Board of Education less power than it has now. I would be embarrassed. I hope that we will not come to that point. I hope that we will rectify our own mistakes.

There is nothing wrong in rectifying a mistake, making a correction. I beseech you --

DELEGATE CORN: Point of order. Point of order.

DELEGATE H. MASON: I beseech you --

DELEGATE CORN: Point of order. Point of order.

PRESIDENT CASSELL: State your point of order.

MANY VOICES: Sit down. Let her finish. There is a speaker on the floor. Sit down, Gloria.

DELEGATE CORN: [Overridden.]

DELEGATE JORDAN: Make her sit down, she is out of order.

DELEGATE JONES: Sit down, Gloria.

PRESIDENT CASSELL: Yes, she was very much in order. A point of order can be raised for the purpose of interrupting

a speaker.

The committee has withdrawn its report. It has withdrawn its motion to adopt.

Delegate Graham, the next article.

DELEGATE CORN: Point of order. Point of order.

PRESIDENT CASSELL: I will not recognize any more Points of order.

DELEGATE GRAHAM: Mr. President -- Mr. President -- We were trying to get some information so that each one of the Delegates could see the reason we wanted to withdraw it at this time and bring it back in a few minutes because we want everybody to have that in front of them and maybe they would understand exactly why we are advocating this kind of thing.

DELEGATE KAMENY: We are making xeroxes now.

PRESIDENT CASSELL: All right, when you do that, then we may consider it again.

DELEGATE GRAHAM: Thank you.

PRESIDENT CASSELL: Can we go next to the next item?

DELEGATE GRAHAM: Bill of Rights, Mr. President.

PRESIDENT CASSELL: All right. On the floor now is the Bill of Rights. Ladies and gentlemen.

DELEGATE GRAHAM: Mr. President and ladies and

gentlemen --

PRESIDENT CASSELL: We must have quiet, ladies and gentlemen.

DELEGATE GRAHAM: The article we are beginning to ask you to adopt now is the Bill of Rights. Let us please look at Section 1, Freedom of Religion.

Mr. President, I move the adoption of Section 1, Freedom of Religion.

[Motion made and seconded.]

PRESIDENT CASSELL: It has been moved and seconded that Section 1, Freedom of Religion, be adopted.

Discussion.

There being no discussion, those in favor of Section 1, indicate by saying aye.

[Chorus of ayes.]

Opposed?

Abstain?

[Motion adopted.]

PRESIDENT CASSELL: Delegate Graham.

DELEGATE GRAHAM: Mr. President, I move the adoption of Section 2, Freedom of Association, Assembly, Expression and Petition.

[Motion made and seconded.]

PRESIDENT CASSELL: It has been moved and seconded that Section 3 be adopted. Is there discussion?

Those in favor, indicate by saying aye.

[Chorus of ayes.]

Those opposed, say no.

Those abstaining.

[Section adopted.]

PRESIDENT CASSELL: Section 2 is adopted.

Delegate GRAHAM.

DELEGATE GRAHAM: Mr. President, I move the adoption of Section 3, Slavery and Involuntary Servitude.

DELEGATE SHELTON: Second.

[Motion made and seconded.]

PRESIDENT CASSELL: It has been moved and seconded that Section 3 on Slavery and Involuntary Servitude be adopted. Discussion.

Those in favor, indicate by saying aye.

[Chorus of ayes.]

Those opposed.

Those abstaining.

[Section adopted.]

PRESIDENT CASSELL: Section 3 is adopted.

Section 4.

DELEGATE GRAHAM: Mr. President, I move the adoption of Section 4, Due Process.

[Motion made and seconded.]

PRESIDENT CASSELL: It has been moved and seconded that Section 4 on Due Process be adopted. Discussion.

Those in favor, indicate by saying aye.

[Chorus of ayes.]

Opposed?

Abstain?

[Section adopted.]

PRESIDENT CASSELL: Section 4 is adopted.
Section 5.

PRESIDENT CASSELL: Section 5.

DELEGATE GRAHAM: Mr. President, I move the adoption of Section 5, Searches and Seizures.

[Motion made and seconded.]

PRESIDENT CASSELL: It has been moved and seconded that Section 5, Searches and Seizures, be adopted. Discussion.

Delegate Long?

DELEGATE LONG: Wish to point out that on page 3, line 14, the fifth word in should be plan, P-L-A-N rather than plant.

DELEGATE EICHHORN: Thank you, Mr. Long.

DELEGATE MARCUS: Could you repeat that, Delegate Long?

DELEGATE LONG: [Repeats.]

It should be "plan." There should be no "T" on it.

DELEGATE GRAHAM: Thank you, Mr. Long.

PRESIDENT CASSELL: Without objection. Further discussion on Section 5?

There being no further discussion, those in favor of adopting Section 5 indicate by saying aye.

[Chorus of ayes.]

Opposed?

Abstain?

Section 5 is adopted. Delegate Graham.

DELEGATE MAGUIRE: Point of personal privilege.

PRESIDENT CASSELL: State your personal privilege.

DELEGATE MAGUIRE: I can't keep up. You are going too fast. People are talking and I have not had an article long enough in my hand to read it once quickly.

I tried to read the Education and got through that and now this is a very, very detailed article which has a lot of controversy and I think that I deserve the right to have enough time to read a sentence before the question is called.

PRESIDENT CASSELL: Well, now, it seems that the

majority of the body has had no difficulty in following it.

If there is any particular item that you need to raise questions on, why don't you do that? I would not slow down the whole process, though, without an expression from the body itself.

Delegate Graham.

DELEGATE GRAHAM: Mr. President, I move the adoption of Section 6, Right of Arrestees and Defendants.

PRESIDENT CASSELL: Second?

DELEGATE KAMENY: Second.

[Motion made and seconded.]

PRESIDENT CASSELL: It has been moved and seconded that Section 6, Right of Arrestees and Defendants, be adopted.

Discussion? Delegate Maguire.

[Delegate Maguire shakes head "No."]

There being no discussion, those in favor of
Section 6 --

DELEGATE MAGUIRE: Can't we please have the Article read?

PRESIDENT CASSELL: -- indicate by saying aye.

[Chorus of ayes.]

Those opposed?

[Weak chorus of opposition.]

Abstain?

[Section adopted.]

PRESIDENT CASSELL: Section 6 is adopted.

Delegate Maguire.

DELEGATE MAGUIRE: Mr. President, would you please read the articles as they are moved?

VOICE: You have to make that a motion.

DELEGATE MAGUIRE: I move that the Articles be read before they are adopted, word for word.

[Side comments and discussion.]

PRESIDENT CASSELL: Does the Committee have any problems with that?

DELEGATE GRAHAM: Yes, Mr. President, we do because we read quite well and we read very fast. I don't know if there are some people who read very slowly in here or not but this is the second reading and this is one of the reasons why we appreciate this kind of procedure.

PRESIDENT CASSELL: Let me ask you, Delegate Graham, are there changes in these articles?

DELEGATE GRAHAM: No, no changes.

DELEGATE KAMENY: Very few.

PRESIDENT CASSELL: Delegate Maguire, you have had an opportunity to first of all, read and vote on the first reading. There are no --

DELEGATE MAGUIRE: But I don't know whether or not they have made any changes. Am I supposed to believe them just because they told me that? And through the Chair, I ask Delegate Graham if she is criticizing me because I cannot read as quickly as she has?

PRESIDENT CASSELL: Delegate Love.

DELEGATE LOVE: Mr. Chair, I think Delegate Maguire's motion is in order because of the fact that we just distributed these half an hour before reading started. Most of them, we got out a day ahead of time but these we did get out just now. We have, as you realize, violated our 24-hour rule as it is.

I think it might be in order just to be sure.

PRESIDENT CASSELL: Let us put it to a vote.

Those who would like to read these verbatim, indicate by showing your hands. Mr. Secretary.

[In a vote by raising of hands, it is decided to read aloud, 15 in favor]

PRESIDENT CASSELL: Those who would prefer not to read them verbatim, please raise your hands.

[8 are opposed.]

Those abstaining?

[No abstentions. Motion passes.]

PRESIDENT CASSELL: Delegate GRAHAM, would you

—

proceed to read Section number 6?

DELEGATE GRAHAM: [Reads as follows:]

Section 6 Right of Arrestees and Defendants

In all criminal matters, all persons have the right to the assistance of competent counsel from commencement of a custodial interrogation, during trial and appeal, and whenever they are subject to a deprivation of liberty. When arrested they shall be informed of their right to consult with counsel. Persons charged with a crime have the right to receive an explicit statement of the nature and cause of the accusation, to the discovery of all evidence possessed by the State, and to the presumption of innocence until proven guilty beyond a reasonable doubt. Convicted persons shall have the right to judicial review.

I move the adoption, Mr. President, of Section 6.

[Motion made and seconded.]

PRESIDENT CASSELL: It has been moved and seconded that Section 6 as read be adopted. Discussion?

Those in favor, indicate by saying aye.

[Chorus of ayes.]

Those opposed.

Abstain.

[Section adopted.]

PRESIDENT CASSELL: Section 6 is adopted.

Delegate Graham.

DELEGATE GRAHAM: Mr. President, Delegate Kameny will read the next section.

PRESIDENT CASSELL: Please proceed, Delegate Kameny.

DELEGATE KAMENY: Thank you, Mr. President.

We adopted Section 6 just now?

PRESIDENT CASSELL: Yes, we did.

DELEGATE KAMENY: Mr. President, I move the adoption of Section 7, Grand Jury.

PRESIDENT CASSELL: Please read it, Delegate Kameny.

DELEGATE KAMENY: Do you want me to read it before or after the second?

PRESIDENT CASSELL: I beg your pardon.

A DELEGATE: Second.

[Motion made and seconded.]

PRESIDENT CASSELL: Now please proceed.

DELEGATE KAMENY: [Reads as follows:]

Section 7 Grand Jury

All persons have the right to be free from unwarranted or arbitrary prosecutions. The grand jury shall not engage in

fishing expeditions. Grand jury indictments are required for all offenses carrying authorized prison sentences of one year or more.

MANY VOICES: Point of order.

DELEGATE JORDAN: Point of speed, Mr. Chair
If we go on like this, we will be here all night?

DELEGATE THOMAS: Couldn't you read it a bit more rapidly?

DELEGATE KAMENY: Oh, with pleasure.

DELEGATE: This is not a nursery school.

DELEGATE KAMENY: Fine. All right.

PRESIDENT CASSELL: "Point of speed." That is interesting.

DELEGATE KAMENY: [Repeats at great rate of speed]

VOOCES: All right. Way to go. Right on.

DELEGATE MAGUIRE: This is ridiculous. This is ridiculous.

DELEGATE KAMENY: What do you want? What do you want? I am getting conflicting signals. I will be glad to --

PRESIDENT CASSELL: Delegate Maguire, you are out of order. I remind you, Delegate Maguire, that you said to me in the beginning that you wanted us to speed up this meeting so you could watch a basketball game tonight.

Delegate Kameny.

DELEGATE KAMENY: All right, I'll proceed.

DELEGATE MAGUIRE: Why can't you show some respect for me? I am respectful to all of you.

PRESIDENT CASSELL: Delegate Kameny, read at a deliberate pace, please. Not all deliberate speed, certainly.

DELEGATE KAMENY: [Reads as follows:]

Grand jurors shall be drawn from a cross-section of the community. All grand jury witnesses shall have the right to assistance and presence of counsel, to be informed of the privilege against self-incrimination, and to be advised if they are, or may become, targets of prosecution. Criminal defendants are entitled to grand jury transcripts in a timely fashion.

The grand jury shall appoint and the State shall pay non-governmental counsel for independent advice. Indictments shall be issued only on probable cause and shall, upon motion, be dismissed for violations of this section.

The House of Delegates shall determine the manner of grand jury selection and operation.

Mr. President, I move the adoption of this section.

I have decided to reverse the procedure.

[Motion made and there is a second.]

PRESIDENT CASSELL: Is there discussion?

DELEGATE CORN: Point of order. Point of order.

PRESIDENT CASSELL: Yes. Delegate Corn.

DELEGATE CORN: on line 1, page 5, "fishing expeditions." I would think that, hopefully, a better word or words could be found which would be more applicable to the --

DELEGATE KAMENY: May I respond briefly to that?

The Committee on Style and Drafting--

PRESIDENT CASSELL: You really don't need to respond.

DELEGATE KAMENY: -- discussed that. It turns out to be one of the rare instances in which a highly colloquial phrase is simultaneously a long and honored and well-established term of legal art and therefore --

DELEGATE CORN: Fine, but --

PRESIDENT CASSELL: Further discussion on Section 7?

Those in favor, indicate by saying aye.

[Chorus of ayes.]

Those opposed?

Abstain?

[Section adopted.]

Section 7 is adopted. All right, Mr. Kameny.

DELEGATE KAMENY: Section 8, Bail.

Mr. President, I'll make the motion after I read each time.

PRESIDENT CASSELL: Yes, that is correct.

DELEGATE KAMENY : Section 8, Bail. The sole purpose of bail is to assure the presence of the accused at trial. Bail shall not be excessive and may take the form of a cash or property guarantee.

Mr. President, I move the adoption of Section 8.

[Motion made and seconded]

PRESIDENT CASSELL: It has been moved and seconded that Section 8 on bail be adopted. Discussion.

Delegate Long?

DELEGATE LONG: Mr. President, I move to divide this question into the two sentences.

VOICE: What? I didn't hear that.

DELEGATE LONG: There are two sentences. I wish to vote on them separately and I so move.

[Motion made. There are several seconds.]

PRESIDENT CASSELL: All right. I think that motion is out of order and it is out of order for the following reasons:

Section 8, Bail, is a repetition of what was voted on in the first reading. It was not voted on separately. You can't very well vote on half of this and reject the other half

VOICE: Yes, you can.

PRESIDENT CASSELL: No, you cannot. Section 8 is one integrated unit. I would rule that motion out of order. If you want to reject that, you know, you would have to reject the whole thing.

DELEGATE LONG: May I speak to your ruling on the motion?

PRESIDENT CASSELL: Yes. Yes, you may.

DELEGATE LONG: These sentences are completely independent. The motion to divide the question is perfectly in order under Robert's Rules of Order, which governs this Convention.

These sentences stand independently.

PRESIDENT CASSELL: There are rules which do govern this Convention and they are the rules of the Convention itself. The only time that Robert's Rules of Order prevail is where they are silent and where there is a specific need to refer to them to resolve an issue.

Further discussion on the -- first of all, there was

SECRETARY COOPER: Point of order. Motions to

— divide are not debatable.

PRESIDENT CASSELL: Was there a second to that motion?

SECRETARY COOPER: I believe there was.

PRESIDENT CASSELL: Who seconded that motion?

Mr. Secretary, what did you say?

SECRETARY COOPER: Motions to divide are not debatable.

DELEGATE KAMENY: The motion was out of order.

PRESIDENT CASSELL: He was speaking to my ruling it out of order.

The Chair is going to let that ruling stand. Would somebody like to challenge that?

DELEGATE LONG: Point of appeal.

SECRETARY COOPER: Second.

DELEGATE LONG: I appeal the ruling of the Chair.

PRESIDENT CASSELL: Okay, would you like to state your basis for appealing the ruling of the Chair?

DELEGATE LONG: Rule 4.1 on page 18, Part L, Division of Question applies to amendments or a main motion. This is a main motion made by Mr. Kameny to adopt this section.

PRESIDENT CASSELL: The Chair is persuaded that our rules do cover your motion. Your motion is in order.

Those in favor of dividing, signify by raising your

hands.

VOICE: Point of order. What are we voting on?

PRESIDENT CASSELL: Those in favor of dividing.

[In a vote by show of hands, 8 are in favor, 13 are against, no abstentions. Motion loses.]

PRESIDENT CASSELL: Okay, the motion loses. Section 8 on bail is now on the floor.

DELEGATE CORN: Mr. President, point of order.

PRESIDENT CASSELL: Delegate Corn.

DELEGATE CORN: I think that the problem arises from the Style and Drafting not, perhaps, wording it as best as it could. If the sentence, the first sentence read --

PRESIDENT CASSELL: What is it that arises? The motion before us is to adopt Section 8.

DELEGATE CORN: Well, I think the reason that there was a motion to divide was because --

PRESIDENT CASSELL: Okay, that is not on the floor now.

DELEGATE CORN: But I would like to move, then, that the wording in the first sentence be slightly changed --

DELEGATE JONES and other Delegates: That is out of order. That is out of order.

DELEGATE CORN: -- so as to better reflect the

— meaning of the sentence. May I offer a suggestion --

PRESIDENT CASSELL: The motion on the floor is to adopt Section 8. You are not speaking to that motion.

Those in favor of adopting Section 8 as read --

DELEGATE CORN: No, the meaning of the first sentence

VOICES: You are out of order. You are out of order.

PRESIDENT CASSELL: -- signify by saying aye, please.

[Chorus of ayes.]

Those opposed.

[A few persons are opposed.]

Abstaining.

Motion carries. Delegate Kameny.

DELEGATE KAMENY: Section 9, Trial by Jury.

[Reads as follows:]

Every person accused of a criminal offense is guaranteed the right to: a speedy, public, and fair trial; compulsory attendance of witnesses; confrontation with adversary witnesses; and trial by a jury of 12 persons. Conviction may be based only upon a unanimous jury verdict finding the accused guilty beyond a reasonable doubt.

— Mr. President, I move the adoption of Section 9.

[Motion made and seconded.]

PRESIDENT CASSELL: Moved and seconded that Section 9, Trial by Jury, be adopted. Discussion. Maguire.

DELEGATE MAGUIRE: On line 6, the number 12. Yesterday your committee said they had voted on not using the number 12 but on using the word twelve. I just wanted to point that out to you.

DELEGATE CORN: That is because --

DELEGATE MAGUIRE: I didn't ask you. I would appreciate it if the committee would answer that.

PRESIDENT CASSELL: All right, the question has been raised. Committee?

DELEGATE GRAHAM: May I say, we have decided to use zero to ten in the written word and we use a numeral if it exceeds ten.

PRESIDENT CASSELL: Okay. There is a motion on the floor. The motion is to adopt Section 9 as read. Further discussion?

Those in favor, indicate by saying aye.

[Chorus of ayes.]

Those opposed.

Those abstaining.

Section 9 is adopted. Delegate Kameny.

DELEGATE KAMENY: [Reads as follows:]

Section 10 Punishment

The State shall not require excessive fines, nor impose cruel, corporal, or unusual punishment, or sentence of death. Penal administration shall be based upon the principle of reformation and with the objective of restoring the offender to a useful role in community life. Convicted persons shall not be denied any rights specified in this Constitution except only as shall be reasonably necessary for the security of the penal institution or the State and its citizens.

Mr. President, I move the adoption of Section 10.

[Motion made and seconded.]

PRESIDENT CASSELL: Seconded. Moved and seconded that Section 10 on Punishment be adopted. Discussion.

Those in favor, indicate by saying aye.

[There is a chorus of ayes.]

Opposed.

[There is a chorus of nays.]

Let's see the hands of those who are in favor of Section 10 as read.

DELEGATE KAMENY: In favor of Section 10.

[In a vote by raising of hands, 15 are in favor,

3 are opposed, balance abstain. Section adopted.]

PRESIDENT CASSELL: Section 10 is adopted.

Delegate Kameny.

DELEGATE KAMENY: Section 11. Imprisonment for Debt. No person shall be imprisoned for inability to pay a debt. Mr. President, I move for the adoption of Section 11.

[Motion made and seconded.]

PRESIDENT CASSELL: It has been moved and seconded that Section 11 on Imprisonment for Debt be adopted.

Discussion?

There being no discussion, all in favor indicate by saying aye.

[Chorus of ayes.]

Opposed. Abstain.

[Motion passes.]

Delegate Kameny.

DELEGATE KAMENY: Section 11 is adopted?

PRESIDENT CASSELL: Yes, Section 11 is adopted.

DELEGATE KAMENY: [Reads as follows:]

Section 12 Double Jeopardy

No person shall be tried more than once for the same offense; further, the State shall try in a single trial all charges, actual and potential, arising from the same facts and circumstances. Trial of a person for an offense in any jurisdiction of the United States and subsequent trial for the same offense based on the same set of facts and circumstances under the jurisdiction of the State shall constitute double jeopardy under the Section.

Mr. President, I move the adoption of Section 12.

[Motion made and seconded.]

PRESIDENT CASSELL: It has been moved and seconded that Section 12 on Double Jeopardy be adopted. Discussion?

DELEGATE TALMADGE MOORE: Point of order, Mr. Chairman.

PRESIDENT CASSELL: State your point.

DELEGATE TALMADGE MOORE: Line 10 should be under this section not the previous section.

DELEGATE CORN: Right.

PRESIDENT CASSELL: Committee?

DELEGATE KAMENY: Right.

DELEGATE CORN: Point of order, Mr. President.

PRESIDENT CASSELL: By common consent.

Delegate Corn.

DELEGATE CORN: Instead of under this section, how about according to this section? I think it would read a little smoother.

MANY VOICES: [Express disagreement.]

PRESIDENT CASSELL: Further discussion on Section 12?

Those in favor, indicate by saying aye.

[There is a chorus of ayes.]

Opposed. Abstain.

Section 12 is adopted. Delegate Kameny.

DELEGATE KAMENY: Section 13, Bills of Attainder and Ex Post Facto Laws. Bills of attainder and ex post facto laws are prohibited.

Mr. President, I move the adoption of Section 13.

[Motion made and seconded.]

PRESIDENT CASSELL: It has been moved and seconded that Section 13, Bills of Attainder and Ex Post Facto Laws be adopted. Discussion? Those in favor, indicate by saying aye.

[Chorus of ayes.]

Those opposed. Abstain. Section 13 is adopted. Kameny.

DELEGATE KAMENY: [Reads as follows:]

Section 14 Habeas Corpus

The writ of habeas corpus shall be available promptly at all times, successively, and without limit in all cases of unlawful detention, conviction, or sentencing, whether or not the petitioner is in custody.

Mr. President, I move the adoption of Section 14.

[Motion made and seconded.]

PRESIDENT CASSELL: It has been moved and seconded that Section 14 on Habeas Corpus be adopted. Discussion?

Those in favor, indicate by saying aye.

[Chorus of ayes.]

Opposed? Abstain? Section 14 is adopted.

DELEGATE KAMENY: [Reads as follows:]

Section 15 Abolition of Common Law Criminal Offenses

Every crime shall be defined with specificity in a statute enacted by the House of Delegates, and no person shall be accused, arrested, tried, or convicted for any act not expressly defined as an offense by such statute. This section shall take effect after the expiration of a time period to be specified by law.

Mr. President, I move Section 15.

[Motion made and seconded.]

PRESIDENT CASSELL: Moved and seconded that Section 15, Abolition of of Common Law Criminal Offenses be adopted.

Discussion?

Those in favor, indicate by saying aye.

[Chorus of ayes.]

Opposed? Abstain? Section 15 is adopted.

Section 16.

DELEGATE KAMENY: [Reads as follows:]

Section 16 Abolition of Sovereign Immunity

Unless otherwise provided in this Constitution, the State and any of its subordinate levels of government, and any branch, agency, and office thereof, and any officer or agent thereof in both official and personal capacity, shall be amenable to suit and liability in the courts of this State or of the United States, with respect to official acts both of commission and omission, including the failure, inability or refusal by law enforcement agencies of the State to provide reasonable protection to individuals, from crimes of violence; except that, no judge of any court may be sued with respect to a decision rendered in any case, but may be questioned and required to testify as to issuance of any warrant.

Mr. President, I move the adoption of Section 16.

[Motion made and seconded.]

PRESIDENT CASSELL: It has been moved and seconded that Section 16 on Abolition of Sovereign Immunity be adopted.

Discussion? Delegate Jordan.

DELEGATE JORDAN: Mr. President, I thought I had a text that said "provide reasonable protection to persons and property."

PRESIDENT CASSELL: What line is that?

DELEGATE JORDAN: No, I am saying, I thought that I had something that said, "provide reasonable protection to persons and property."

PRESIDENT CASSELL: Is this something that would have been an addition? Does it appear here?

DELEGATE JORDAN: No, I thought that was the way it was. I had it worded here that way.

DELEGATE KAMENY: There is additional language here that was moved by Delegate Jordan and accepted by the floor on first reading and the committee put that in, as I recall it, totally verbatim and totally without change, as it came to us.

We did not even edit it, as I recall. We left it precisely.

PRESIDENT CASSELL: Delegate Maguire.

DELEGATE MAGUIRE: I thought that I had that language verbatim also of Delegate Jordan and that would be in line 20, you changed from "crime and violence" to "crimes of violence" and that is a substantial change, a substance change.

DELEGATE KAMENY: The language we received, as I recall it, I leave it to the committee to confirm what I say, was "crimes of violence" and that is what we had before us when we deliberated on that earlier today.

PRESIDENT CASSELL: Well, we can always refer to the transcript. We can't resolve this here. I would ask the Style and Drafting Committee to refer to the transcript. If, indeed, this is inaccurate, you would be so instructed.

DELEGATE KAMENY: Thank you.

PRESIDENT CASSELL: With that codicil, that if there is an inconsistency, the transcript shall prevail.

DELEGATE MARCUS: Mr. President, the Committee on -- the Research Committee on Preamble and Rights was keeping verbatim notes of the articles that were going on and our notes show "crimes of violence" as well.

PRESIDENT CASSELL: Further discussion on Section 16?

Those in favor of adopting Section 16 with the codicil that we stipulated regarding the transcript verification, indicate by saying aye.

[Chorus of ayes.]

Those opposed.

[Chorus of opposition.]

Those abstaining.

[A few abstentions.] [Section passes.]

PRESIDENT CASSELL: Section 16 is adopted.

Delegate Kameny.

DELEGATE KAMENY: [Reads as follows:]

Section 17 Freedom from Discrimination

Every person shall have a fundamental right to the equal protection of the law and to be free from historic group discrimination, public or private, based on race, color, religion, creed, citizenship, national origin, sex, sexual orientation, poverty, or parentage. Affirmative action to correct consequences of past discrimination against women, and against racial and national minorities, shall be lawful.

Persons with disabilities shall have the right to be treated as equal community members, and the right to services as defined by law provided in a way that promotes dignity and independence and full community participation.

Youth and seniors shall have the right to the enjoyment of health and well-being and to the services as provided by law necessary for their development and welfare. No adult shall be discriminated against in housing or employment on the basis of age, except that services limited to senior citizens may be provided.

It shall be unlawful to commit or incite acts of violence against persons or property based on race, color, creed, national origin, sex, or sexual orientation.

Equality of rights under the law shall not be denied or abridged in the State or any of its subdivisions because of sex.

This section shall be self-executing and shall be enforced by appropriate legislation.

Mr. President, I move the adoption of Section 17.

DELEGATE SHELTON: Second.

PRESIDENT CASSELL: It has been moved and seconded that Section 17 on Freedom from Discrimination be adopted.

Discussion. Love, Eichhorn, Marcus.

DELEGATE LOVE: Mr. Chair, I feel this is one of the most important parts of our whole Constitution and it is with

some regret that I stand to speak against certain sections of Section 17; specifically two sections. The first is in line 4 when it talks about the right to be free from "historic group discrimination."

I feel what this does is to single out certain groups and to make the inference that anybody who has future discrimination somehow does not have the same weight in this Constitution as people who have been discriminated [against] in the past.

It is a backward-looking rather than a forward-looking document.

Secondly, I rise to speak against the Affirmative Action Program which limits affirmative action to women and racial and national minorities.

Just as an example, there are many handicapped people who have not been hired because they are handicapped. Under this provision, they would not be covered in any kind of affirmative action program.

I am sorry that this particular section has seen fit to limit in some sense its protections to people in our community rather than to extend the right to be free from discrimination to everybody. Thank you.

PRESIDENT CASSELL: Discussion. Delegate Eichhorn.

DELEGATE EICHHORN: I want to point out another omission on line --

PRESIDENT CASSELL: Well, there is a motion on the floor.

DELEGATE EICHHORN: Could I be recognized.

DELEGATE MAGUIRE: No, he didn't make a motion.

PRESIDENT CASSELL: Oh, he is speaking against the motion to adopt. I beg your pardon.

Yes, Delegate Eichhorn.

DELEGATE EICHHORN: On line 24 we [inaudible.]

PRESIDENT CASSELL: Committee?

DELEGATE KAMENY: I defer to the committee but I believe that she is correct.

PRESIDENT CASSELL: May we add that without objection? Where does it go? Before "creed" or after "creed"?

DELEGATE KAMENY: My recollection is that it goes parallel with lines 5 and 6. It should go between "color" and "creed." Line 24. [Add the word "religion."]

PRESIDENT CASSELL: Further discussion on the motion to adopt? Marcus.

DELEGATE MARCUS: I would like to call the Committee's attention to lines 11 through 14. There is a substantive change in here in what was known as Subsection (B)

as amended and adopted, "persons with disability have the right to receive services necessary for full community participation as provided for by law."

In the language that is reported out from the Committee on Style and Drafting, that has been turned into the "right for services as defined by law that promotes full community participation." There's a clear difference between what is necessary for full community participation and the promotion of full community participation. So I would move, Mr. President, that in fact, that language read, "The right to services necessary to full community participation as defined by law provided in a way that promotes dignity and independence."

PRESIDENT CASSELL: All right, there is an amendment to the article as written.

Do you have that written out, sir?

DELEGATE MARCUS: I can do that very quickly.

DELEGATE LOVE: That is the original language.

DELEGATE MARCUS: It is the original language.

DELEGATE EICHORN: No.

PRESIDENT CASSELL: All right, let me withdraw that statement. Mr. Marcus indicates that there is an inconsistency. Therefore, this should not be an amendment.

DELEGATE MARCUS: There is an inconsistency. And there is an inconsistency from the original intent, too.

PRESIDENT CASSELL: Okay. Committee response.

[Side discussion.]

DELEGATE GRAHAM: Mr. President, I have something that is just a little different from the original that was circulated and that I have. I shall read it. I think it is Section B, according to my information.

PRESIDENT CASSELL: Well, one moment, now. You are saying what you have is different than what was circulated

DELEGATE GRAHAM: Well, I have --

PRESIDENT CASSELL: The question is --

DELEGATE GRAHAM: -- an amendment that was made and the amendment said, after "independence," "and full community participation."

PRESIDENT CASSELL: All right now, where would that be?

DELEGATE GRAHAM: Now, on the other copy, it was -- [overridden by side conversation] -- and this was what the amendment stated, "add to it, 'full community participation.'" And that is what we used.

The new copy has --

PRESIDENT CASSELL: Please tell me what you are

reading from.

DELEGATE GRAHAM: They are lines 13 and 14.

PRESIDENT CASSELL: Umn hmn.

DELEGATE GRAHAM; And in the old copy, we added what was amended on the floor and that was, "And full community participation." And it is there.

PRESIDENT CASSELL: All right, Delegate --

DELEGATE GRAHAM: He has an amendment he wants to make to that but not to what was passed on the floor.

PRESIDENT CASSELL: Well, we are discussing now the claim by Delegate Marcus that this is not faithful to the amendment that was made and adopted. You are saying that it is.

DELEGATE GRAHAM: Mr. President, it is a new amendment. That is not what was passed on the floor.

Am I right, Mr. Secretary?

SECRETARY COOPER: Yes, you are right.

PRESIDENT CASSELL: All right, the Secretary and the Research Coordinator and the Style and Drafting Committee concur -- concur that what is written here is consistent with what was adopted on the first reading.

DELEGATE KAMENY: This is precisely what was adopted on first reading, from my records.

PRESIDENT CASSELL: All right. Delegate Barnes and then Delegate Long. Oh, just a minute, where is --

DELEGATE BARNES: Mr. President, first of all, I would like for someone to read that paragraph again and then, just a question, my copy has "religion" on line 6.

DELEGATE KAMENY: Yes. Yes, we just discussed that. Delegate Eichhorn brought that up.

DELEGATE BARNES: I must have missed that.

PRESIDENT CASSELL: What they were saying is it did not occur on line 24 and it should have.

DELEGATE BARNES: Okay. Could Delegate Kameny read the second paragraph again?

DELEGATE KAMENY: You mean the second reading text now?

DELEGATE BARNES: Yes, just as you read it before.

DELEGATE KAMENY: "Persons with disabilities shall have the right to be treated as equal community members and the right to services as defined by law provided in a way that promotes dignity and independence and full community participation."

DELEGATE BARNES: Thank you.

PRESIDENT CASSELL: It seems to me that we have dealt with Delegate Marcus' concern. We have not dealt with

— Delegate Love's concern.

Okay, Delegate Love has simply pointed out what he considers to be a deficiency.

Delegate Long. Delegate Moore.

DELEGATE LONG: I wish to point out an inconsistency of a very basic kind that is so fundamental that it escaped me when I read this document as a whole.

Line 23 on page 9. It says it is "unlawful to commit or incite acts of violence."

Section 2 of this Constitution says that freedom of speech or the press shall not be denied. Those two things are definitely in conflict. The American Civil Liberties Union has gone time and time to bat for people on the left and the right on the basis that their statements which were taken by the parties as incitements to violence is a proper exercise of human speech.

We have a very difficult problem. The only way I can see to correct it is to strike the words "or incite."

PRESIDENT CASSELL: Committee response.

DELEGATE KAVENY: I think you will find that at this point you are getting back down into the substance of what was already adopted on the floor and there was some debate.

— I think that you will find that there is a difference

— between words of such actions as "inciting to violence" on the one hand and advocating, for example, as one way of putting it advocating violence, on the other.

Advocating violence in my personal belief would probably be protected by the First Amendment.

Inciting to violence, you will find by -- in my view, I have to speak in my personal interpretation here of what I know of constitutional law -- incitement to violence. Imminent violence is what it implied would be prohibited under the First Amendment to the Federal Constitution and therefore, would be consistent with what we have here. That was considered.

DELEGATE LONG: Can I get our General Counsel's opinion on that?

PRESIDENT CASSELL: Mr. General Counsel, you have heard the opinion stated by Delegate Kameny. Do you have an opposing view? Or a different view?

MR. THOMAS: Well, I don't know if I see much of a difference between advocating violence and inciting violence. But the ultimate conflict between the right given in Section 2 would merely have to be -- the courts would merely balance that against the right in Section 17.

— A person has free speech only to the extent to

— which it incites violence. The courts will merely construe that in a reasonable -- hopefully, in a reasonable way.

PRESIDENT CASSELL: All right, we have had Delegate Love who has spoken against the amendment. Delegate Eichhorn has raised -- one moment, one moment, sir, you will be recognized. Your name is down there.

Delegate Eichhorn has pointed out what she believes to be an inconsistency. Delegate Marcus has pointed out what he believes to be an inconsistency. I think he corrected Delegate Eichhorn's concern.

Delegate Marcus' position has been argued with by the committee.

Delegate Talmadge Moore. So far, we only have one speaker against the adoption of Article 17.

DELEGATE TALMADGE MOORE: Mr. President. Fellow Delegates. I rise to speak for the language that the committee has produced, rising in opposition to Mr. Love's amendment.

Or your suggestion? It was not an amendment? Okay, I withdraw that.

PRESIDENT CASSELL: What happened, just then?

DELEGATE LOVE: He thought I made an amendment and it was just a suggestion.

PRESIDENT CASSELL: Okay. Further discussion on

the adoption of the Article on Bill of Rights?

Further discussion.

There being no -- Delegate Maguire.

DELEGATE MAGUIRE: I would like to speak against the adoption of Section 17 on the basis of lines 16 through 21. I feel that they are inconsistent with our document. Being 23 years old, I feel like I have already been discriminated [against] because I can't be a governor or a legislator or a judge and I think that the Convention should decide what they want there and particularly like 18, 21 has now I am concerned that it is a gay legislation and not a compositional article as far as speaking against Section 17.

[Note: last two lines may be inaccurate owing to great amount of overtalking and side conversations]

PRESIDENT CASSELL: All right, any further discussion? Delegate Talmadge Moore.

DELEGATE TALMADGE MOORE: I don't want to speak against it. I want to speak for it.

PRESIDENT CASSELL: All right, sir.

DELEGATE TALMADGE MOORE: Mr. President and fellow Delegates, I want to speak in favor of Section 17. I have encountered some personal acts of discrimination which this article had reference to. These incidents happened --

happened in the '50's and in the '60's when I was a Second Lieutenant in the United States Army in uniform.

I don't know whether any of you have encountered any of these difficulties and acts of discrimination and abuse and inhumane treatments.

As a matter of fact, on a personal incident in Tulmar, Wisconsin in the United States --

PRESIDENT CASSELL: [ssssshing for quiet] Please, please, please.

DELEGATE TALMADGE MOORE: In the United States Army's uniform as a Second Lieutenant, I was in a restaurant, went in a restaurant and was asked to leave because of color, because of [I am] black.

I was selected by our Battalion Commander to attend a conference in Las Vegas, Nevada, Operation Desert Rock to see the bomb that was dropped on Hiroshima and Nagasaki and represent my outfit and I was in Las Vegas, Nevada in uniform and I was refused -- refused to enter into the government establishment.

This was in the '50's. So I strongly support this article in 17 -- I mean, this section 17.

In addition to that, one of my personal friends -- one of my personal friends was gunned down during the '60's,

Lieutenant Colonel Penn, and the personnel was brought to trial and they were let go Scot free so I personally have a personal thing on this Section 17 and I support every word in it.

SECRETARY COOPER: Delegate Cooper.

SECRETARY COOPER: I would like to speak against the adoption of Section 17 for one good reason and Mr. Moore just pointed it out. As I said three times in the past, most of this Constitution is based on our personal experiences, however good or bad they may be and I don't think we should try to legislate that way.

DELEGATE SHELTON: You're right.

PRESIDENT CASSELL: All right, further discussion.
Delegate Kameny.

DELEGATE KAMENY: I move the previous question.

[Previous question moved and seconded.]

PRESIDENT CASSELL: All right, the previous question has been moved. Those in favor of terminating debate, indicate by saying aye.

[Chorus of ayes.]

Opposed. Abstain.

All right, those in favor of adopting Section 17 with the correction made, inserting "religion" on line 24, indicate by saying aye.

[There is a chorus of ayes.]

Opposed. Abstain. [One abstention.]

Motion carries.

DELEGATE LOVE: Can my abstention go on record?
SECRETARY COOPER: Yes, it goes on as absent.

PRESIDENT CASSELL: Surely.

Mr. Secretary -- although this is a voice vote --

DELEGATE SHELTON: No, it may not. Only -- an
abstention may go on the record but not the name of the person
who abstained, unless we have a roll call.

VOICE: Oh, yeah, we really need a roll call.

PRESIDENT CASSELL: Well, is there a prohibition
against them being recorded or is there --

DELEGATE SHELTON: Oh, yes, only in a roll call
vote can you name the individual.

SEVERAL VOICES: Yeah.

PRESIDENT CASSELL: All right. Any other comments
on this?

SECRETARY COOPER: Oh, yes, I will say that a
Delegate may ask to have his name indicated after the vote.

[Laughter.]

PRESIDENT CASSELL: All right. Delegate Kameny.

DELEGATE KAMENY: All right, Section 18, Privacy.
The right of the individual to decide whether to

—
procreate or to bear a child is inviolable, as is the right of
consensual
noncommercial, private, consensual, sexual behavior of adults.
Those who exercise or advocate these rights have, in addition,
the right to be free from all forms of discrimination.

[Continues reading as follows:]

Political surveillance is contrary to democratic principles.
Therefore, unless relevant for prosecution of past, present or
imminent crime, information on any person's exercise of freedom
of religion, expression, association, assembly or petition for
redress of grievances, shall not be collected surreptitiously
under color of law.

Individual privacy with respect to personal bank accounts,
health, academic, employment, communications and similar records,
the disclosure of which would constitute an invasion of the
privacy of the individual concerned, is a right, the protection

of which shall be provided by law. However, the name, salary,
and place of employment of each employee of the State and of any
of its agencies or local government units is a matter of public
record and shall be available to the public.

Mr. President, I move the adoption of Section 18.

[Motion made and seconded.]

PRESIDENT CASSELL: It has been moved and seconded that Section 18 on privacy be adopted. Discussion?

Delegate Jones.

DELEGATE JONES: Mr. President, can we combine this into the paragraph in order to vote on it?

PRESIDENT CASSELL: Without objection?

[No objection is expressed.]

Without objection, we will.

DELEGATE JONES: Good.

PRESIDENT CASSELL: Very good. All right, would you care to make a motion?

DELEGATE JONES: No, I prefer not to. You said without objection, so --

DELEGATE LOVE: You have got to make a motion.

PRESIDENT CASSELL: No, she prefers not to. She knows that she can.

DELEGATE JONES: He said without objection and I respect you to say objections so --

PRESIDENT CASSELL: All right, those in favor --
Yes, Delegate Cooper?

SECRETARY COOPER: I have an objection.

DELEGATE JONES: No, you can't object now.

A DELEGATE: I call the question.

[Question called and seconded.]

PRESIDENT CASSELL: It has been moved and seconded that Section 18 on privacy be adopted. Discussion? Barnes.

DELEGATE BARNES: I am sorry to bother the Delegates here but I am going to vote no on this section on moral grounds

PRESIDENT CASSELL: Further discussion? Delegate Jones.

DELEGATE JONES: I would like to speak against the adoption of this section on moral grounds because this section is a complete violation of poor people and black women here in this city.

PRESIDENT CASSELL: Further discussion? Cooper?

SECRETARY COOPER: Yes. I, too, am going to vote no on this section and I hope that my other fellow delegates will. I speak against the adoption of this section because it is totally unreasonable. I don't think we are going to get statehood with a section in our Constitution like this and I don't think this is going to deny or provide anybody with any additional rights. It is a complete total waste -- at least the first paragraph, anyway.

PRESIDENT CASSELL: Further discussion.

There being none, those in favor of adopting Section 18 on privacy, indicate by raising your hands.

[In a vote by raising of hands, 22 are for, 4 are opposed, one delegate abstains. Section adopted.]

PRESIDENT CASSELL: Section 18 is adopted.

Delegate Kameny.

DELEGATE KAMENY: [Reads as follows:]

Section 19 Civil Suits

The right to a jury and a civil suit shall remain inviolate.
The House of Delegates shall assure access to courts for those litigants unable to pay. Court costs shall not be required of any litigant unable to pay.

Mr. President, I move the adoption of Section 19.

[Motion made and seconded.]

PRESIDENT CASSELL: Moved and seconded that Section 19 on Civil Rights be adopted. Discussion.

There being none, those in favor of adopting Section 19, indicate by saying aye.

[Chorus of ayes.]

Those opposed. Abstain.

Section 19 is adopted. Delegate Kameny.

DELEGATE KAMENY: Section 20. Right to Employment.
Every person shall have the right to employment or if unable to work, an income sufficient to meet basic human needs.

Mr. President, I move the adoption of Section 20.

PRESIDENT CASSELL: Is there a second?

[Motion made and seconded.]

PRESIDENT CASSELL: It is moved and seconded that Section 20 be adopted. Discussion. Jones, Barnes, Love.

DELEGATE JONES:section on employment bothers me. I think it should be employment suitable for the person who is going to be employed and the committee never explained that and I would wish somebody would so I can vote intelligently on this question.

PRESIDENT CASSELL: Would the committee respond?

DELEGATE MARCUS: I would ask Delegate Jones to please repeat her comments as I was discussing another part of the section with one of the delegates. I am sorry.

DELEGATE JONES: You should listen to me.

DELEGATE MARCUS: I will.

DELEGATE JONES: I would like some member of the committee, or Delegate Marcus, if he is going to speak for the committee, to explain to me about every person who has the right to employment. And are you talking about the employment suitable for the person? Employment that he is suitable for? You know, I wish you would explain that to me so I can vote right on it.

DELEGATE MARCUS: It was the intention of the Committee on Preamble and Rights to do just that. The language as it reads now is an amendment provided by Delegate Harris.

I plan to vote for the language if we handle the rest of the question about the language itself but --

DELEGATE SHELTON: May I ask a question? May I ask a question?

DELEGATE MARCUS: I would turn it over to Delegate Shelton.

DELEGATE SHELTON: This essentially is basically, as I understand it from the Delegate that proposed it, it basically models after the Full Employment Bill, the guarantee of the right of employment opportunities and the government responsibility to provide full employment and if this employment is not available, the right to a income that is sufficient to meet the needs so that there will be basically either employment opportunity or income equal to the need for people in the state.

And I think that is basically [it.] It is modeled after the Full Employment Bill although the language is not the same.

PRESIDENT CASSELL: Marcus. Marcus.

DELEGATE MARCUS: Yes. I would like to say, that

— was the intent of the committee. As I said, the language is different. I hope the recorder got everything that Delegate Shelton said because my question pertains to the phrase, "If unable to work."

I wanted to be certain in the record of this Convention that the phrase "If unable to work" also referred to those people whose rights have not fulfilled on the part of the government as to the right to employment and not just those people who are prevented as a result of their disability, mental or mental, for work.

PRESIDENT CASSELL: Further discussion on Section 20? Barnes.

DELEGATE BARNES: Yes, I am speaking as someone with a pragmatic, Methodist philosophy --

VOICE: Oh, my.

DELEGATE BARNES: -- and not a leftist economic philosophy that is not as well thought-out. I sympathize 100 percent with the intent of Section 20. My problem with Section 20 is simple. There is no mechanism that is in this Constitution whereby the state can provide the jobs and the revenue necessary to enforce this provision.

— I would not like to see something very sticky appear in the Constitution whereby people would be suing the Government

— because they could not get a job and open up a Pandora's box of economic problems.

It is unfortunate that such a mechanism has not been defined in the Constitution. For that reason, I am voting no on the section because I just don't think it is workable. Granted, we all want a strong government economic control that can solve basic, fundamental problems. That is why such measures as the state bank were put in this Constitution, a way to stimulate economic growth that needs to be stimulated, to try to take up -- you know, to try to do some of these things that are urgently needed.

However, the practical matter of it is that this is unworkable without a mechanism to produce those jobs.

PRESIDENT CASSELL: Thank you. Thank you.

Further discussion on Section 20?

We have had -- one, two, three -- we have had two for and three against or, I beg your pardon, for for and three against.

Is there anything that has not been said yet?

VOICE: I would like to respond.

PRESIDENT CASSELL: My question is, is there anything that has not been said yet? New idea, not reinforcement.

Love.

DELEGATE LOVE: I would like to ask Michael Marcus or somebody from the committee to give us an estimate of how much an additional cost the enforcement of this right would be if it were to come into existence as of today?

DELEGATE MARCUS: I don't know, Mr. Love. Nor do I know how much it costs to have every citizen vote. Nor do I know how much the estimated cost was in 1947 as to the Housing Act which guarantees every American housing cost nor do I know how much the 1946 National Employment Act which guarantees every American a job cost.

So I think what we deal with here are rights. We don't deal with the finances of the state. We deal with what a state should look like to deal with --

DELEGATE LOVE: All right, what I did was ask you a question. Thank you. We are not debating.

DELEGATE MARCUS: I would like --

PRESIDENT CASSELL: Now, now, the Chair will handle those little admonitions. Will you please simply proceed with what you wish to say?

DELEGATE LOVE: Fellow Delegates, you are being asked to vote for something for which there is no estimate of the cost. I think that is enough of an argument by itself for you to seriously consider it and to vote it down.

PRESIDENT CASSELL: Something that has not been said. Delegate Simmons. Something that has not been said.

DELEGATE SIMMONS: I think that we ought not to be fooled by Delegate Love, who, based on his statement, would suggest that he has a price tag on every other item in this document and that the United States Constitution was priced out in terms of every single question and that the legislation that has occurred since the Constitutions of the last 200 years has been priced out.

He knows that is not true. He does not have that knowledge and it is only when it is a ox that he feels is not his that is being gorded [sic] that he suddenly is interested in how much it costs.

I have not heard him raising questions about many of these other rights that we are talking about.

DELEGATE JONES: Ain't nothing but a cop-out.

PRESIDENT CASSELL: Last speaker. Moore.

DELEGATE BRIAN MOORE: I rise to speak in opposition to this section of the article. I think that what we will see is that the practical results of this will be to see many D.C. residents fleeing the District.

They will flee because of the fact of the high cost involved in litigation and the attempt on the part of our state

government to provide jobs for people.

That is the very practical result and I think that this single item alone will scare and frighten many people in the District. I have never heard more opposition to this Convention until this morning and this afternoon from people in my area. This one single item more than any other has created such a reaction that you won't believe. It is almost like a fire storm so I ask you to please consider the tactical implications of this high ideal and attempt to implement it.

PRESIDENT CASSELL: The Committee Chairperson has asked for the last word on this and then we will vote.

DELEGATE GRAHAM: Mr. President and members of the Convention, I am very happy to see this here because recently I read in the Washington Post where one out of every five families -- black families in the District of Columbia -- is on welfare. And maybe this means a step forward in helping them to lift themselves up by the boots and get off of welfare and go to work.

We hope so. And I certainly support this section.

PRESIDENT CASSELL: All right, all those in favor of adopting Section 20, indicate by saying aye, please.

[Chorus of ayes.]

Those opposed.

[Chorus of opposition.]

VOICE: Division. Division.

PRESIDENT CASSELL: Let me see a show of hands.
Those in favor of supporting Section 20, indicate by raising
your hands.

In a vote by raising of hands, 19 are for, 12 are
opposed, abstain. Section adopted.]

PRESIDENT CASSELL: Section 20 is adopted.

Delegate Kameny.

DELEGATE KAMENY: Section 21. Equal Pay.

All employees shall be guaranteed equal pay for
equal work and equal pay for comparable work.

Mr. President, I move the adoption of Section 21.

DELEGATE SIMMONS: I second.

[Motion made and seconded.]

PRESIDENT CASSELL: It has been moved and seconded
that Section 21 on Equal Pay be adopted. Delegate Cooper.

SECRETARY COOPER: Yes. It is bad enough that we
adopted Section 20. This just carries it one step further.
I don't really see whether this is necessary or not. I would
kind of like to ask the committee a question because we have
adopted language that I realize is slightly different. We
have language that is almost the same in the article on

Economic Development where we say -- in Section 2 under Labor Relations -- that "The Legislature shall provide for minimum wages equal pay for equal work and equal pay for comparable work."

And of course here we make it an absolute right and I understand we are leaving it to the legislature to work within that frame but I don't think the language is really necessary in both places.

Either we are going to give the legislature the latitude to make that decision or we are going to do like we have done in every other section here and spell it out in detail in Section 21.

DELEGATE KAMENY: Delegate Cooper of all people should remember what went on --

PRESIDENT CASSELL: Jones -- Jones -- Delegate Kameny, you have not been recognized, sir.

DELEGATE KAMENY: I'm sorry.

PRESIDENT CASSELL: Delegate Jones. Marcus, do you care to be recognized?

DELEGATE MARCUS: Yes, please.

PRESIDENT CASSELL: Jones, then Marcus.

DELEGATE JONES: I urge this Convention to vote for Section 21. The problems that we have as when we say "Equal